

**ILLINOIS LABOR ADVISORY MEETING  
MEETING MINUTES  
DECEMBER 9, 2013  
1:00 pm**

**Board Member Attendance:** Brian Glynn, Ralph Graham (via phone), Mark Guethle, Tina Harbin, Bruce Holland, Marc Poulos, John Penn, Jorge Ramirez.

**Illinois Department of Labor (IDOL) Staff Attendance:** Joseph Costigan, Rosaelia Garcia, Gil Jimenez, Jim Preckwinkle (via phone), Tumia Romero, Tom Whalen, Ron Willis.

**I. Call to order**

The Meeting was called to order at 1:19pm by Jorge Ramirez, Chairperson of the Labor Advisory Board.

**II. Welcome- Introduction**

Jorge Ramirez welcomed everyone to the LAB meeting and asked all in attendance to introduce themselves.

**III. Approval of Minutes from September 19<sup>th</sup> Meeting**

A motion was made by Jorge Ramirez and seconded by Mark Guethle to approve the Minutes from the September 19<sup>th</sup> meeting. The motion was passed.

**IV. Old Business**

Director Costigan commented about the issue that came up at the last Labor Advisory Board (LAB) meeting. He stated that Kim Bobo, LAB member asked the committee if it would it be possible to host some hearings on Wage Theft. The hearing can be aimed at multiple audiences like the legislators, the general public and the media. She has worked on a couple of committees that have hosted hearings which is not difficult and this could get huge Press. Director Costigan suggested in Kim Bobo's absence to create a Committee and to have the Labor Advisory Board tackle some Hearings on Wage Theft. Director Costigan added that Kim Bobo has written a book titled "Wage Theft in America" in 2009 and was well received. She is very familiar with Wage Theft. Director Costigan stated that Kim Bobo will be part of this committee.

A motion was made by Mark Guethle, LAB member and seconded by Brian Glynn, LAB member to create a committee on Hearings on Wage Theft. The motion passed.

**V. Director Comments**

Director Costigan discussed the Wages Collected by IDOL in CY2013. In calendar year 2011 the Department raised \$4.6 M, in calendar year 2012, the amount increased to \$6.2 and \$6.5 is estimated for Calendar year 2013. The Department is putting in place a modern Case Management System. Director Costigan added that the Department is working with the community. The IDOL staff is out in the

Community working on outreach events. The Department is also participating in Legislative conferences.

Director Costigan stated that almost half of our budget is derived from two Federal Safety grants programs from the US Department of Labor. There is the Safety Enforcement on the public sector side and the Safety Consultation on the private sector side. These Safety Grants total \$5 million.

Director Costigan commented that the remaining part of the Budget comes from the State Legislation and totals \$6.7 Million dollars. There are "Other State Funds" which include Day and Temporary Labor fines, fees and penalties totaling \$607 thousand. Money comes from the enforcement of the Employee Classification fund and \$137,000 has been collected in penalties. Lastly, we have a fund where the Department collects \$250 dollars per Wage Theft case. If a case goes to trial to an administrative hearing and the employer owes money to the worker; a \$250 dollar administrative fee is added on to the judgment. This money goes back to our department. This law has been in effect since 2012 and the department has collected \$148,000.

In 2014, amendments to the Prevailing Wage, Employee Classification Act and other additional laws take effect. New requirements in the Prevailing Wage Act require contractors, subcontractors, and the public body to increase the number of years in which records must be kept on a project. There are also additional reporting requirements for filing certified payrolls with the Department. The Wage Payment and Collection Act has been changed to allow all claims, regardless of amount, to be heard through the formal hearing process within the Department. The Employee Classification Act (ECA) now allows for a formal hearing process to take place for investigations and adds a personal liability clause for knowingly violating the Act. Reporting requirements for the ECA have also been updated.

Director Costigan commented that during the Spring Legislative session the Department will be proposing certain legislative items. They will include:

1. Personal records viewing Act by adding penalties.
2. Consolidating the Two OSHA Acts.
3. Streamlining the investigative procedures in the Equal Pay Act.
4. Add penalties to Minimum Wage Act for employers who have not keep the records.
5. The Department is working with the Community groups regarding the Domestic workers Bill of Rights.

Director Costigan commented, recently, the Department just celebrated the 40<sup>th</sup> anniversary for an IDOL employee. This IDOL employee started in 1973. Director Costigan found out that the department had 42 Compliance officers in 1973 compared to 9 in 2013. The Department really needs the LAB Board members help and advice and guidance on issues relating to the Department's mission. The Legislators continue to add more responsibility but not more resources.

Director Costigan stated that at the next LAB meeting the Committee can discuss the Federal Government Grant in more detail. Next month, the Department will have its annual SHARP Ceremony. The Safety and Health Achievement Recognition Program (SHARP) is awarded to smaller companies who have occupational safety and health programs that exceed the OSHA standard requirements. Tru Vue

Inc. has met and exceeded all evaluations of their program as conducted by our On-Site Safety and Health Consultation Program. It is unusual for this company who is in a high risk industry to go over 700 days without a recordable accident. Tru Vue Inc. manufactures glass framing components that range from your local retail store to museum quality glass components. Tru Vue Inc. is located in McCook, Illinois. The Department wants to show that we work with good employers that are following the law. Director Costigan suggested inviting the Safety department to our next LAB Board meeting.

Marc Poulos, member of the Labor Advisory Board suggested a one page IDOL fact sheet. The one page IDOL fact sheet should include the Budget, the number of laws the agency investigates and headcount. An historical comparison of these numbers on one page can go from 1973 to 2013 to prove the growth in responsibility of the agency. He commented that the Department needs greater resources to accomplish its mission. Marc Poulos stated Illinois is a great place to work as illustrated by Director Costigan's example of the TRU VUE Company. Unfortunately, according to Marc Poulos, there are Legislators who say out loud 'Why come to Illinois'.

## **VI. NEW BUSINESS**

- **IDOL Innovations in Funding**

Board member, Marc Poulos had a question for the Department. He asked, how many times the Department can find an employee for whom it has a check. He suggested that the employees that cannot be found after a period, the money escheat back to the Department to help subsidize its activities. Tumia Romero, Assistant Director asked Marc Poulos, if he thought it would be feasible to setup a Legislative Work group on this issue and funding issues? Director Costigan suggested that the Department move forward on this issue

Chairman, Jorge Ramirez, suggested the LAB members organize a 'Legislative Committee' together so the Department can move forward quickly.

Marc Poulos, also suggested a funding mechanism associated with public works projects whereby a fee be added and the money return to the Department. He suggested a percentage cost be added to the state projects. A committee should be formed to speak to Legislators on the Department's Budget.

Director Costigan asked Bruce Holland, about his thoughts. Mr. Holland explained he was in favor because the Department needs to have funding.

Marc Poulos commented again that the Department has a case to present and this is why Funding is important.

A motion was made by Marc Poulos, LAB member and seconded by Jorge Ramirez to create a Legislative Committee. The motion was passed.

Upon motion, Jorge Ramirez, Marc Poulos, Ralph Graham all LAB members and Tumia Romero, Jim Preckwinkle, both IDOL staff will all serve on a Legislative committee.

- **Misclassification Task Force**

Marc Poulos, Board member discussed the issue of starting a Misclassification Task Force. Marc stated that as part of our mission, the Board is in charge with assisting the Department of Labor on the direction the Department takes on issues important to the working men and women of the State of Illinois. As you may recall, the Indiana, Illinois and Iowa Foundation for Fair Contracting took the lead on passing the Employee classification Act in 2008.

Marc Poulos added that the original passage of the Act, many groups have asked when the State will broaden the Act's scope to encompass more industries outside of construction. He continued that the LAB board members may want to discuss an Executive Order from the Governor that would involve the establishment of a multi-agency Task Force. In addition he suggested that there be public service announcements or even testing sites across the state that would allow individuals to see whether an employer is misclassifying them in contradiction to existing laws. Misclassification is pervasive in our state. In New York, Misclassification Task Force exists. Obtaining an Executive Order that covers a Task Force with the Department of Revenue, Workers' Compensation Commission, and the Department of Employment Security is critical to attacking this issue.

Director Costigan suggested that the office of the Secretary of State needs to be included and should require Worker's compensation and unemployment numbers as part of the billing process.

Jorge Ramirez, Chairperson suggested a meeting that includes all departments the Department of Revenue, Workers' Compensation Commission, and the Department of Employment Security and possibly the Secretary of State so that all the agencies can be involved in this process.

Ron Willis, General Counsel added that most of these agencies touch on Misclassification.

Marc Poulos suggested that the Labor Advisory Board start by arranging meeting with the top agencies in Illinois. It is a big issue other than IRS we need to work together. Not only is there on economic loss to the State and employees who are misclassified, but there are social costs.

Director Costigan commented about the growing problem and possible solutions needs to be pushed to the next level. An executive order will be very helpful. Marc Poulos suggested the Department consult with the US Department of Labor as it has been attempting to push on this issue.

Jorge Ramirez suggested another committee can be formed as the Misclassification Task Force.

- **Operating Engineers/Testing and Survey Work Construction Projects**

Bruce Holland had a concern on the testing, surveying and coverage under the Prevailing Wage Act.

Ron Willis, General Counsel stated that the Department has not changed its position on any initiatives on these issues. Surveyors who work on public work sites historically have been covered by the Prevailing Wage Act and similarly testers in the Northern 15 counties have been covered. To obtain a new classification employers or Unions or interested parties can file a petition to be heard

by an Administrative Law Judge at the appropriate time. The Department will agree to a new classification where it is consistent with the Department's position. Every June any interested person can file a petition.

Bruce Holland asked if the Engineers have another opportunity in June or July of 2014. General Counsel, Ron Willis, responded they do.

Marc Poulos added in the cases in question that certain employers did not intervene until months after the Petitions were filed. Surveyors have always fall under the classification of Laborers. The Department's action has been consistent with the approach taken by the US Department of Labor.

Ron Willis commented that there is a whole new area of Technology which will have be addressed by the Department in its enforcement of the Prevailing Wage Act classification issues as technology changes. He reminded the LAB Board members that the Department does not have regulation authority in this area.

Mark Guethle asked the members, who does the layout work? Bruce Holland answered whoever is doing the work either the Carpenters or Surveyors.

#### **VII. Legal Report**

Ron Willis, General Counsel gave an overview of the Legal developments since the last meeting. He stated that the Department got assigned another responsible which is the Preference Act which the Legislative has passed a resolution authorizing a study to be conducted. The law has not been enforced for certain constitutional issues. If enforced, the Act should have a major impact. In Southern Illinois, Rock Island but not necessarily in Cook County, Mr. Willis commented on the ERH Supreme court decision and its potential impact on Southern Illinois.

Brian Glynn had a question for Ron Willis on the Employee Classification Act constitutional and its impact on Public and Private Works. Ron Willis stated it only affects Private works.

Ron Willis commented on the sales tax rebate cases and the first case being litigated. He also expressed the position that the TIF cases should be reviewed for further action.

#### **VIII. Meeting Calendar and Planning**

Director Costigan suggested having a Master calendar to plan future meeting. Jorge Ramirez, chairperson stated an email will be sent out to agree on the next LAB meeting for 2014.

#### **IX. Adjournment**

Meeting was adjourned at 3:03pm by Jorge Ramirez, Chairperson of the Labor Advisory Board.